

1982 WL 189166 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 16, 1982

\*1 W. Jerry Fedder, Esquire  
Oconee County Attorney  
Fedder, Derrick, Ritter & Williams  
Post Office Box 795  
Seneca, South Carolina 29678

Dear Mr. Fedder:

Attorney General McLeod has referred your letter of February 1, 1982, to me for reply. You have asked the following questions:

1) May Oconee County accept a grant from the Appalachian Regional Council of Governments equal to fifty (50%) percent of the cost of a water transmission line, so as to be able to match these funds and construct such water line connecting the municipal water supply of the City of Walhalla and the Town of Salem, in the absence of a referendum authorizing Oconee County to engage in the public utility activity of a water transmission enterprise?

2) Should your answer to question #1 be negative, would Oconee County Council be permitted to make a grant to the City of Walhalla to enable it to match an ARC grant in order to construct a water line from its present facilities to the town of Salem, which would thereafter be owned and operated by the City of Walhalla?

As your letter states, [Article 8, § 16 of the South Carolina Constitution](#) requires a county to conduct a referendum in order to engage in the public utility activity of a water company, and Oconee County has not conducted such a referendum.

[Article 8, § 16](#) provides in pertinent part:

Any county . . . may, upon a majority vote of the electors voting on the question in such county . . . , acquire by initial construction or purchase and may operate water, sewer, transportation or other public utility systems . . .

The purpose of this constitutional provision is clearly to prevent a governmental entity from engaging in the water and sewer business without the prior approval of the electorate. Even a one-time expenditure of funds for this purpose would seem to violate the constitutional provision, in that such a purchase would amount to an expenditure for a purpose on which the constitution has placed special procedural requirements. Accordingly, it is the opinion of this office that any expenditure of funds for water transmission line purposes in the absence of an election would be in violation of [Article 8, § 16](#) regardless of who is the ultimate owner or operator of the water transmission line.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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